

**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

	x	
In re	:	Chapter 11
DELPHI CORPORATION <u>et al.</u> ,	:	Case No. 05-44481 (rdd)
Debtors.	:	(Jointly Administered)
	x	

AFFIDAVIT OF SERVICE

I, Amber M. Cerveny, being duly sworn according to law, deposes and says that I am employed by Kurtzman Carson Consultants, LLC, proposed claims and noticing agent for the Debtors in the above-captioned cases.

On October 17, 2005, under my direction and under my supervision, employees of KCC caused to be served, via overnight mail the documents listed in Section 1 on the parties attached hereto as Exhibits A & B:

Section 1

- I.** Notice of Motion for an Order Under 11 U.S.C. § 363 Approving Procedures to Sell Certain De Minimis Assets Free and Clear of Liens, Claims, and Encumbrances and to Pay Market Rate Broker Commissions in Connection with Such Sales Without Further Court Approval **(Docket No. 327) [Attached hereto as Exhibit C]**

- II.** Motion for an Order Under 11 U.S.C. § 363 Approving Procedures to Sell Certain De Minimis Assets Free and Clear of Liens, Claims, and Encumbrances and to Pay Market Rate Broker Commissions in Connection with Such Sales Without Further Court Approval **(Docket No. 327) [Attached hereto as Exhibit D]**

- III.** Notice of Motion for Order Under 11 U.S.C. § 365(a) Authorizing Rejection of Lease Agreement With Duraswitch Industries, Inc. **(Docket No. 327) [Attached hereto as Exhibit E]**

- IV.** Motion for Order Under 11 U.S.C. § 365(a) Authorizing Rejection of Lease Agreement With Duraswitch Industries, Inc. **(Docket No. 327) [Attached hereto as Exhibit F]**

- V.** Notice of Motion for Order Under 11 U.S.C. § 365(a) Authorizing Rejection of Pacific Rim Lease **(Docket No. 325) [Attached hereto as Exhibit G]**

- VI.** Motion for Order Under 11 U.S.C. § 365(a) Authorizing Rejection of Pacific Rim Lease **(Docket No. 325) [Attached hereto as Exhibit H]**

- VII.** Notice of Motion for Order Under 11 U.S.C. §§ 105, 363, 364, and 365(a) Authorizing Debtors to Assume or Otherwise Take Actions Necessary to Cure and Continue to Use

of Purchase Card Agreement and Travel Card Agreement with HSBC Bank USA, National Association Used for Low-Cost, Business-Related Goods, Services, and Travel **(Docket No. 324) [Attached hereto as Exhibit I]**

- VIII.** Motion for Order Under 11 U.S.C. §§ 105, 363, 364, and 365(a) Authorizing Debtors to Assume or Otherwise Take Actions Necessary to Cure and Continue to Use of Purchase Card Agreement and Travel Card Agreement with HSBC Bank USA, National Association Used for Low-Cost, Business-Related Goods, Services, and Travel **(Docket No. 324) [Attached hereto as Exhibit J]**
- IX.** Notice of Filing of Amended Exhibits in Connection with Application for Order Under 11 U.S.C. §§ 327(a) and 328 (I) Authorizing Employment and Retention of Rothschild Inc. as Financial Advisor and Investment Banker to Debtors and (II) Scheduling Final Hearing **(Docket No. 331) [Attached hereto as Exhibit K]**

On October 13, 2005, under my direction and under my supervision, employees of KCC caused to be served, via overnight mail the documents listed in Section 2 on the parties attached hereto as Exhibit L

Section 2

- I.** Notice of Motion for Order Under 11 U.S.C. § 365(a) Authorizing Rejection of Lease Agreement With Duraswitch Industries, Inc. **(Docket No. 329) [Attached hereto as Exhibit E]**
- II.** Motion for Order Under 11 U.S.C. § 365(a) Authorizing Rejection of Lease Agreement With Duraswitch Industries, Inc. **(Docket No. 329) [Attached hereto as Exhibit F]**

On October 13, 2005, under my direction and under my supervision, employees of KCC caused to be served, via overnight mail the documents listed in Section 3 on the parties attached hereto as Exhibit M

Section 3

- I.** Notice of Motion for Order Under 11 U.S.C. §§ 105, 363, 364, and 365(a) Authorizing Debtors to Assume or Otherwise Take Actions Necessary to Cure and Continue to Use of Purchase Card Agreement and Travel Card Agreement with HSBC Bank USA, National Association Used for Low-Cost, Business-Related Goods, Services, and Travel **(Docket No. 324) [Attached hereto as Exhibit I]**
- II.** Motion for Order Under 11 U.S.C. §§ 105, 363, 364, and 365(a) Authorizing Debtors to Assume or Otherwise Take Actions Necessary to Cure and Continue to Use of Purchase Card Agreement and Travel Card Agreement with HSBC Bank USA, National Association Used for Low-Cost, Business-Related Goods, Services, and Travel **(Docket No. 324) [Attached hereto as Exhibit J]**

On October 13, 2005, under my direction and under my supervision, employees of KCC caused to be served, via overnight mail the documents listed in Section 4 on the parties attached hereto as Exhibit N

Section 4

- I. Notice of Motion for Order Under 11 U.S.C. § 365(a) Authorizing Rejection of Pacific Rim Lease (Docket No. 325) [Attached hereto as Exhibit G]**
- II. Motion for Order Under 11 U.S.C. § 365(a) Authorizing Rejection of Pacific Rim Lease (Docket No. 325) [Attached hereto as Exhibit H]**

Dated: October 25, 2005

/s/ Amber M. Cervený

Amber M. Cervený

Sworn to and subscribed before
me on October 25, 2005

/s/ Evan J. Gershbein

Notary Public

My Commission Expires: 1/19/07

EXHIBIT A

NAME	COMPANY	ADDRESS1	ADDRESS2	CITY	STATE	ZIPCODE	PARTYFUNCTION
Albert Togut	Togut Segal & Segal LLP	One Penn Plaza	Suite 3335	New York	NY	10119	Conflicts Counsel to the Debtors
Attn: Insolvency Department	Internal Revenue Service	290 Broadway	5th Floor	New York	NY	10007	IRS
Attorney General Eliot Spitzer	Office of New York State	120 Broadway		New York City	NY	10271	New York Attorney General's Office
Chester B Salomon Constantine D Pourakis	Stevens & Lee PC	485 Madison Avenue	20th Floor	New York	NY	10022	Counsel for Wamco Inc
Clifford Trapani	JPMorgan Chase Bank NA	Loan and Agency Services Group	1111 Fannin 10th Floor	Houston	TX	77002	Postpetition Administrative Agent
David L Resnick	Rothchild Inc	1251 Avenue of the Americas		New York	NY	10020	Financial Advisor
Deirdre A Martini	United States Trustee	33 Whitehall Street	Suite 2100	New York	NY	10004	United States Trustee
Donald Bernstein	Davis Polk & Wardwell	450 Lexington Avenue		New York	NY	10017	Postpetition Administrative Agent
Douglas Bartner Jill Frizzley	Shearman & Sterling LLP	599 Lexington Avenue		New York	NY	10022	Local Counsel to the Debtors
Hexcel Corporation	Stephen H Gross	Hodgson Russ LLP	152 West 57th Street 35th Floor	New York	NY		Counsel for Hexcel Corporation
James Le	Kurtzman Carson Consultants	12910 Culver Blvd	Suite I	Los Angeles	CA	90066	Noticing and Claims Agent:
Jeffrey Cohen	Pension Benefit Guaranty Corporation	1200 K Street NW	Suite 340	Washington	DC	20005	Counsel for Pension Benefit Guaranty Corporation
John Devine	General Motors Corporation	300 Renaissance Center	PO Box 300	Detroit	MI	48265	General Motors Corporation
John Wm Butler John K Lyons Ron E Meisler	Skadden Arps Slate Meagher & Flom LLP	333 W Wacker Dr	Suite 2100	Chicago	IL	60606	Counsel to the Debtor
Joseph T Moldovan Esq	Morrison Cohen LLP	909 Third Avenue		New York	NY	10022	Counsel for Blue Cross and Blue Shield of Michigan
Kayalyn A Marafioti Thomas J Matz	Skadden Arps Slate Meagher & Flom LLP	4 Times Square		New York	NY	10036	Counsel to the Debtor
Kenneth S Ziman Robert H Trust	Simpson Thatcher & Bartlett LLP	425 Lexington Avenue		New York	NY	10017	Prepetition Administrative Agent
Khuyen Ta	JPMorgan Chase Bank NA	Agent Bank Services Group	1111 Fannin 10th Floor	Houston	TX	77002	Prepetition Administrative Agent
Lonie A Hassel	Groom Law Group	1701 Pennsylvania Avenue NW		Washington	DC	20006	Counsel for Employee Benefits
Martin J Bienenstock	Weil Gotshal & Manges LLP	767 Fifth Avenue		New York	NY	10153	Counsel to General Motors Corporation
Ralph L Landy	Pension Benefit Guaranty Corporation	1200 K Street NW	Suite 340	Washington	DC	20005-4026	Chief Counsel for the Pension Benefit Guaranty Corporation
Randall S Eisenberg	FTI Consulting Inc	3 Times Square	11th Floor	New York	NY	10036	Financial Advisors to Debtors
Reorganization Branch	Securities and Exchange Commission	233 Broadway		New York	NY	10279	Securities and Exchange Commission
Robert Caruso	FTI Consulting Inc	333 West Wacker Drive	Suite 600	Chicago	IL	60606	Financial Advisors to Debtors
Robert Siegel	O'Melveny & Meyer LLP	400 South Hope Street		Los Angeles	CA	90071	Special Labor Counsel
Robert W Dremluck	Seyfarth Shaw LLP	1270 Avenue of the Americas	Suite 2500	New York	NY	10020-1801	Counsel for Murata Electronics North
Sandra A Riemer	Phillips Nizer LLP	666 Fifth Avenue		New York	NY	10103	Counsel for Freescale Semiconductor Inc f/k/a Motorola Semiconductor Systems
Scott King	FTI Consulting Inc	Park One Center	6100 Oaktree Blvd Suite 200	Cleveland	OH	44131	Financial Advisors to Debtors
Sean Corcoran Karen Craft	Delphi Corporation	5725 Delphi Drive		Troy	MI	48098	Debtors
Steven J Reisman	Curtis MalletPrevost Colt & Mosle LLP	101 Park Avenue		New York	NY	10178-0061	Counsel for Flextronics International USA Inc
Thomas F Maher Richard Duker Gianni Russello	JPMorgan Chase Bank NA	270 Park Avenue		New York	NY	10017	Postpetition Administrative Agent
Tom A Jerman Rachel Janger	O'Melveny & Meyer LLP	1625 Eye Street NW		Washington	DC	20006	Special Labor Counsel
Vilma Francis	JPMorgan Chase Bank NA	270 Park Avenue		New York	NY	10017	Prepetition Administrative Agent

EXHIBIT B

NAME	COMPANY	ADDRESS1	ADDRESS2	CITY	STATE	ZIPCODE	PARTYFUNCTION
Alan D Halperin Christopher JBattaglia	Halperin Battaglia Raicht LLP	555 Madison Avenue	9th Floor	New York	NY	10022	Counsel to Pacific Gas Turbine Center LLC and Chromalloy Gas Turbine Corporation
Albert Togut Esq	Togut Segal & Segal LLP	One Penn Plaza	Suite 3335	New York	NY	10119	Conflicts counsel to Debtors
Alyssa Englund Esq	Orrick Herrington & Sutcliffe LLP	666 Fifth Avenue		New York	NY	10103	Counsel to America President Lines Ltd And APL Co Pte Ltd
Andrew C Kassner	Drinker Biddle & Reath LLP	18th and Cherry Streets		Philadelphia	PA	19103	Counsel to Penske Truck Leasing Co LP
Andrew Herenstein	Quadrangle Debt Recovery Advisors LLC	375 Park Avenue 14th Floor		New York	NY	10152	Counsel to Quadrangle Debt Recovery Advisors LLC
Brett S Moore Esq	Porzio Bromberg & Newman PC	100 Southgate Parkway	PO Box 1997	Morristown	NJ	07960	
Brian D Spector Esq	Spector & Ehrenworth PC	30 Columbia Turnpike		Florham Park	NJ	07102	Counsel to Hitachi Automotive Products (USA) Inc
Carol Sowa	Denso International America Inc	24777 Denso Drive		Southfield	MI	48086	Counsel to Denso International America Inc
Charles E Boulbol PC	Russell Reynolds Associates Inc	26 Broadway 17th Floor		New York	NY	10004	Counsel to Russell Reynolds Associates Inc
Charles J Filardi Jr Esq	Pepe & Hazard LLP	30 Jelliff Lane		Southport	CT	06890	Counsel to FedEx Trade Networks Transport & Brokerage Inc
Cherie Macdonald J Patrick Bradley	Greensfelder Hemker & Gale PC	10 S Broadway	Suite 200	St Louis	MO	63102	Counsel for ARC Automotive Inc
Cheryl R Storie	Hodgson Russ LLP	One M&T Plaza	Suite 2000	Buffalo	NY	14203	Counsel for Hexcel Corporation
Chester B Salomon Esq	Stevens & Lee	485 Madison Avenue 20th Floor		New York	NY	10022	Counsel to Tonolli Canada Ltd; VJ Technologies Inc and VJ ElectroniX Inc
Chester B Salomon Esq Constantine D Pourakis Esq	Stevens & Lee PC	485 Madison Avenue	20th Floor	New York	NY	10022	Counsel to Wamco Inc
Constantine D Pourakis Esq	Stevens & Lee	485 Madison Avenue 20th Floor		New York	NY	10022	Counsel to Tonolli Canada Ltd; VJ Technologies Inc and VJ ElectroniX Inc
Craig P Rieders Esq	Genovese Joblove & Battista PA	100 SE 2nd Street	Suite 4400	Miami	FL	33131	Counsel for Ryder Integrated Logistics Inc
Darryl S Laddin	Arnall Golden Gregory LLP	171 17th Street NW	Suite 2100	Atlanta	GA	30363-1031	Counsel to Daishinku (America) Corp d/b/a KDS America ("Daishinku")
David B Aaronson	Drinker Biddle & Reath LLP	18th and Cherry Streets		Philadelphia	PA	19103	Counsel to Penske Truck Leasing Co LP
David E Lemke Esq	Waller Lansden Dortch & Davis PLLC	511 Union Street	Suite 2700	Nashville	TN	37219	Counsel to Nissan North America Inc
David J Adler Jr Esq	McCarter & English LLP	245 Park Avenue 27th Floor		New York	NY	10167	Counsel to Ward Products LLC
David Jury Esq	United Steel Paper and Forestry Rubber Manufacturing Energy Allied Industrial and Service Workers International Union (USW) AFLCIO	Five Gateway Center	Suite 807	Pittsburgh	PA	15222	Counsel to United Steel Paper and Forestry Rubber Manufacturing Energy Allied Industrial and Service Workers International Union (USW) AFL-CIO
Diane W Sanders	Linebarger Goggan Blair & Sampson LLP	1949 South IH 35 (78741)	PO Box 17428	Austin	TX	78760-7428	Counsel to Cameron County Brownsville ISD
Edward M Fox	Kirkpatrick & Lockhart Nicholson Graham LLP	599 Lexington Avenue		New York	NY	10022	Counsel to Wilmington Trust Company as indenture trustee
Elizabeth L Abdelmasieh Esq	Norris McLaughlin & Marcus	721 Route 202206	PO Box 1018	Somerville	NJ	08876	Counsel for Rotor Clip Company Inc
Elizabeth Weller	Linebarger Goggan Blair & Sampson LLP	2323 Bryan Street	Suite 1600	Dallas	TX	75201	Counsel for Dallas County and Tarrant County
Eric Wainer	Gazes LLC	32 Avenue of the Americas	Suite 1800	New York	NY	10013	Counsel to Setech Inc
Frank L Gorman Esq	Honigman Miller Schwartz and Cohn LLP	2290 First National Building	660 Woodward Avenue	Detroit	MI	48226-3583	Counsel to General Motors Corporation
Fred Stevens	Fox Rothschild LLP	13 East 37th Street	Suite 800	New York	NY	10016	Counsel to M&Q Plastic Products Inc
Frederick D Holden Jr Esq	Orrick Herrington & Sutcliffe LLP	405 Howard Street		San Francisco	CA	94105	Counsel to America President Lines Ltd And APL Co Pte Ltd

NAME	COMPANY	ADDRESS1	ADDRESS2	CITY	STATE	ZIPCODE	PARTYFUNCTION
Gerard DiConza Esq	DiConza Law PC	630 Third Avenue 7th Floor		New York	NY	10017	Counsel to Tyz-All Plastics Inc
Gordon J Toering	Warner Norcross & Judd LLP	900 Fifth Third Center	111 Lyon Street NW	Grand Rapids	MI	49503	Counsel for Robert Bosch Corporation
Heath J Vicente	Arnall Golden Gregory LLP	171 17th Street NW	Suite 2100	Atlanta	GA	30363-1031	Counsel to Daishinku (America) Corp d/b/a KDS America ("Daishinku")
Ian J Gazes	Gazes LLC	32 Avenue of the Americas		New York	NY	10013	Counsel to Setech Inc
James M Sullivan	McDermott Will & Emery LLP	50 Rockefeller Plaza		New York	NY	10020	Counsel to Linear Technology Corporation
Jason Pickering Esq	QAD Inc	10000 Midlantic Drive		Mt Laurel	NJ	8054	Counsel to QAD Inc
Jeannette Eisan Hinshaw	Bose McKinney & Evans LLP	135 N Pennsylvania Street	Suite 2700	Indianapolis	IN	46204	Counsel for Decatur Plastics Products Inc
Jeannette Eisan Hinshaw	Bose McKinney & Evans LLP	135 N Pennsylvania Street	Suite 2700	Indianapolis	IN	46204	Counsel for Eikenberry & Associates Inc
Jeffrey Bernstein Esq	McElroy Deutsch Mulvaney & Carpenter LLP	Three Gateway Center	100 Mulberry Street	Newark	NJ	07102-4079	Counsel to New Jersey Self-Insurers Guaranty Association
Jeffrey L Tanenbaum Esq	Weil Gotshal & Manges LLP	767 Fifth Avenue		New York	NY	10153	Counsel to General Motors Corporation
Jeffrey M Levinson Esq	Margulies & Levinson LLP	30100 Chagrin Boulevard	Suite 250	Pepper Pike	OH	44124	Counsel for Venture Plastics
Leah M Caplan Esq							Counsel to Fortune Plastics Company of Illinois Inc; Universal Metal Hose Co
Jennifer L Adamy	Shipman & Goodwin LLP	One Constitution Plaza		Hartford	CT	06103-1919	Counsel to Bank of Lincolnwood
Jill Levi Esq	Todd & Levi LLP	444 Madison Avenue	Suite 1202	New York	NY	10022	Counsel to Linear Technology Corporation
John England Esq	Linear Technology Corporation	1630 McCarthy Blvd		Milpitas	CA	95035-7417	Counsel to TDK Corporation America and MEMC Electronic Materials Inc
John P Sieger Esq	Katten Muchin Rosenman LLP	525 West Monroe Street		Chicago	IL	60661	Counsel to Neuman Aluminum Automotive Inc and Neuman Aluminum Impact Extrusion Inc
John S Mairo Esq	Porzio Bromberg & Newman PC	100 Southgate Parkway	PO Box 1997	Morristown	NJ	07960	Counsel to Priority Health
John T Gregg	Barnes & Thornburg LLP	300 Ottawa Avenue NW	Suite 500	Grand Rapids	MI	49503	Counsel for International Union United Automobile Areospace and Agriculture Implement Works of America (UAW)
Joseph J Vitale	Cohen Weiss & Simon LLP	330 West 42nd Street		New York	NY	10036	Counsel to Republic Engineered Products Inc
Joseph Lapinsky	Republic Engineered Products Inc	3770 Embassy Parkway		Akron	OH	44333	Counsel to Blue Cross and Blue Shield of Michigan
Joseph T Moldovan	Morrison Cohen LLP	909 Third Avenue		New York	NY	10022	Counsel for Airgas Inc
Michael R Dal Lago	Smith Katzenstein & Furlow LLP	800 Delaware Avenue 7th Floor	PO Box 410	Wilmington	DE	19899	Counsel to JPMorgan Chase Bank NA
Kathleen M Miller	Simpson Thacher & Bartlett LLP	425 Lexington Avenue		New York	NY	10017	Counsel to Sedgwick Claims Management Services Inc
Kenneth S Ziman Esq							Counsel to Methode Electronics Inc
Kevin J Walsh	Lord Bissel & Brook LLP	885 Third Avenue	26th Floor	New York	NY	10022-4802	Counsel to United Steel Paper and Forestry Rubber Manufacturing Energy Allied Industrial and Service Workers International Union (USW) AFL-CIO
Rocco N Covino	Lord Bissel & Brook LLP	885 Third Avenue	26th Floor	New York	NY	10022-4802	Counsel to Setech Inc
							Counsel to ACE American Insurance Company
Lowell Peterson Esq	Meyer Suozzi English & Klein PC	1350 Broadway	Suite 501	New York	NY	10018	Counsel to Thyssenkrupp Waupaca Inc and Thyssenkrupp Stahl Company
Madison LCashman	Stites & Harbison PLLC	424 Church Street	Suite 1800	Nashville	TN	37219	Counsel to Contrarian Capital Management LLC
Margery N Reed Esq	Duane Morris LLP	30 South 17th Street		Philadelphia	PA	19103-4196	
Mark A Shaiken	Stinson Morrison Hecker LLP	1201 Walnut Street		Kansas City	MO	64106	
Mark Lee Janice Stanton Bill Raine Seth Lax	Contrarian Capital Management LLC	411 West Putnam Avenue	Suite 225	Greenwich	CT	06830	

NAME	COMPANY	ADDRESS1	ADDRESS2	CITY	STATE	ZIPCODE	PARTYFUNCTION
Martin J Bienstock Esq	Weil Gotshal & Manges LLP	767 Fifth Avenue		New York	NY	10153	Counsel to General Motors Corporation
Michael G Cruse	Warner Norcross & Judd LLP	2000 Town Center	Suite 2700	Southfield	MI	48075	Counsel to Compuware Corporation
Michael J Viscount Jr	Fox Rothschild LLP	1301 Atlantic Avenue	Suite 400	Atlantic City	NJ	08401-7212	Counsel to M&Q Plastic Products Inc
Michael K McCrory							Counsel for Gibbs Die Casting Corporation
Wendy D Brewer	Barnes & Thornburg LLP	11 S Meridian Street		Indianapolis	IN	46204	
Michael Leo Hal	Burr & Forman LLP	420 North Twentieth Street	Suite 3100	Birmingham	AL	35203	Counsel to Mercedes-Benz US International Inc
Michael Leo Hal	Burr & Forman LLP	420 North Twentieth Street	Suite 3100	Birmingham	AL	35203	Counsel to Mercedes-Benz US International Inc
Michael P Kessler Esq	Weil Gotshal & Manges LLP	767 Fifth Avenue		New York	NY	10153	Counsel to General Motors Corporation
Patrick Bartels	Quadrangle Group LLC	375 Park Avenue 14th Floor		New York	NY	10152	Counsel to Quadrangle Group LLC
							Counsel to Armada Rubber Manufacturing Company Bank of America Leasing & Leasing & Capital LLC & AutoCam Corporation
Patrick E Mears	Barnes & Thornburg LLP	300 Ottawa Avenue NW	Suite 500	Grand Rapids	MI	49503	
Paul M Baisier	Seyfarth Shaw LLP	1545 Peachtree Street NE	Suite 700	Atlanta	GA	30309-2401	Counsel for Murata Electronics North America Inc; Fujikura America Inc
Paul M Baisier Esq	Seyfarth Shaw LLP	1545 Peachtree Street NE	Suite 700	Atlanta	GA	30309-2401	
Peter D Bilowz	Goulston & Storrs PC	400 Atlantic Avenue		Boston	MA	02110-333	Counsel to Thermotech Company
Ralph L Landy	Pension Benefit Guaranty Corporation	1200 K Street NW		Washington	DC	20005-4026	Counsel to Pension Benefit Guaranty Corporation
Raymond J Urbanik Esq Joseph J Wielebinski Esq and Davor Rukavina Esq	Munsch Hardt Kopf & Harr PC	4000 Fountain Place	1445 Ross Avenue	Dallas	RX	75202-2790	Counsel for Texas Instruments Incorporated
Richard M Kreman							Counsel for Constellation NewEnergy Inc & Constellation NewEnergy - Gas Division LLC
Maria Ellena ChavezRuark	DLA Piper Rudnick Gray Cary US LLP	The Marbury Building	6225 Smith Avenue	Baltimore	Maryland	21209-3600	
Richard W Esterkin Esq	Morgan Lewis & Bockius LLP	300 South Grand Avenue		Los Angeles	CA	90017	Counsel to Sumitomo Corporation
							Counsel to Freescale Semiconductor Inc f/k/a Motorola Semiconductor Systems (USA) Inc
Rob Charles Esq	Lewis and Roca LLP	One South Church Street	Suite 700	Tucson	AZ	85701	
Robert B Weiss Esq	Honigman Miller Schwartz and Cohn LLP	2290 First National Building	660 Woodward Avenue	Detroit	MI	48226-3583	Counsel to General Motors Corporation
Robert C Goodrich Jr	Stites & Harbison PLLC	424 Church Street	Suite 1800	Nashville	TN	37219	Counsel to Setech Inc
Robert J Sidman Esq	Vorys Sater Seymour and Pease LLP	52 East Gay Street	PO Box 1008	Columbus	OH	43216-1008	
Robert J Welhoelter Esq	Waller Lansden Dortch & Davis PLLC	511 Union Street	Suite 2700	Nashville	TN	37219	Counsel to Nissan North America Inc
Robert Usadi	Cahill Gordon & Reindel LLP	80 Pine Street		New York	NY	10005	Counsel to Engelhard Corporation
Robert W Dremluk	Seyfarth Shaw LLP	1270 Avenue of the Americas	Suite 2500	New York	NY	10020-1801	Counsel to Murata Electronics North America Inc; Fujikura America Inc
Robert W Dremluk Esq	Seyfarth Shaw LLP	1270 Avenue of the Americas	Suite 2500	New York	NY	10020-1801	
Sam O Simmerman	Krugliak Wilkins Griffiths & Dougherty CO LPA	4775 Munson Street NW	PO Box 36963	Canton	OH	44735-6963	Counsel to for Millwood Inc
							Counsel to Freescale Semiconductor Inc f/k/a Motorola Semiconductor Systems (USA) Inc
Sandra A Riemer Esq	Phillips Nizer LLP	666 Fifth Avenue		New York	NY	10103	
Scott D Rosen Esq	Cohn Birnbaum & Shea PC	100 Pearl Street 12th Floor		Hartford	CT	06103	Counsel to Floyd Manufacturing Co Inc
Scott N Opincar Esq	McDonald Hopkins Co LPA	600 Superior Avenue E	Suite 2100	Cleveland	OH	44114	Counsel to Republic Engineered Products Inc
Shawn M Riley Esq	McDonald Hopkins Co LPA	600 Superior Avenue E	Suite 2100	Cleveland	OH	44114	Counsel to Republic Engineered Products Inc

NAME	COMPANY	ADDRESS1	ADDRESS2	CITY	STATE	ZIPCODE	PARTYFUNCTION
Stephen H Gross Esq	Hodgson Russ LLP	Carnegie Hall Tower	152 West 57th Street 35th Street	New York	NY	10019	Counsel to Hexcel Corporation
Steve Kieselstein	Kieselstein Lawfirm PLLC	43 British American Boulevard		Latham	NY	12110	Counsel to NEC Electronics America Inc
Steven J Reisman	Curtis MalletPrevost Colt & Mosle LLP	101 Park Avenue		New York	NY	10178-0061	Counsel for Flextronics International USA Inc
Steven J Reisman Andrew M Thau	Curtis MalletPrevost Colt & Mosle LLP	101 Park Avenue		New York	NY	10178-0061	Counsel for Flextronics International Inc
Susan M Freeman Esq	Lewis and Roca LLP	40 North Central Avenue	Suite 1900	Phoenix	AZ	85004-4429	Counsel to Freescale Semiconductor Inc f/k/a Motorola Semiconductor Systems (USA) Inc
Thomas P Sarb Robert D Wolford	Miller Johnson	250 Monroe Avenue NW	Suite 800 PO Box 306	Grand Rapids	MI	49501-0306	Counsel to Pridgeon & Clay Inc
Tillie Lim Esq	HAL/ERC Legal	50 Prospect Avenue		Tarrytown	NY	10591	Counsel to Hitachi Automotive Products (USA) Inc
Timothy S McFadden	Lord Bissel & Brook	115 South LaSalle Street		Chicago	IL	60603	Counsel for Methode Electronics Inc
Timothy W Brink	Lord Bissel & Brook	115 South LaSalle Street		Chicago	IL	60603	Counsel for Sedgwick Claims Management Services Inc
W Robinson Bears Esq	Stites & Harbison PLLC	400 West market Street		Louisville	KY	40202	Counsel to WAKO Electronics (USA) Inc and Ambrake Corporation
Wendy M Simkulak Esq	Duane Morris LLP	30 South 17th Street		Philadelphia	PA	19103-4196	Counsel to ACE American Insurance Company
William C Heuer Esq	Morgan Lewis & Bockius LLP	101 Park Avenue		New York	NY	10178-0060	Counsel to Sumitomo Corporation
William T Russell Jr Esq	Simpson Thacher & Bartlett LLP	425 Lexington Avenue		New York	NY	10017	Counsel to JPMorgan Chase Bank NA

EXHIBIT C

Hearing Date: October 27, 2005, 10:00 a.m.
Objection Deadline: October 24, 2005, 4:00 p.m.

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
333 West Wacker Drive, Suite 2100
Chicago, Illinois 60606
(312) 407-0700
John Wm. Butler, Jr. (JB 4711)
John K. Lyons (JL 4951)
Ron E. Meisler (RM 3026)

- and -

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
Four Times Square
New York, New York 10036
(212) 735-3000
Kayalyn A. Marafioti (KM 9632)
Thomas J. Matz (TM 5986)

Attorneys for Delphi Corporation, et al.,
Debtors and Debtors-in-Possession

Delphi Legal Information Hotline:
Toll Free: (800) 718-5305
International: (248) 813-2698

Delphi Legal Information Website:
<http://www.delphidocket.com>

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
In re	:	Chapter 11
	:	
DELPHI CORPORATION, <u>et al.</u> ,	:	Case No. 05- 44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
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NOTICE OF MOTION FOR AN ORDER UNDER 11 U.S.C. § 363 APPROVING
PROCEDURES TO SELL CERTAIN DE MINIMUS ASSETS
FREE AND CLEAR OF LIENS, CLAIMS, AND ENCUMBRANCES AND
TO PAY MARKET RATE BROKER COMMISSIONS IN CONNECTION
WITH SUCH SALES WITHOUT FURTHER COURT APPROVAL

PLEASE TAKE NOTICE that on October 17, 2005, Delphi Corporation ("Delphi") and certain of its subsidiaries and affiliates, debtors and debtors-in-possession in the above-captioned cases filed the Motion For An Order Under 11 U.S.C. § 363 Approving Procedures To Sell Certain De Minimus Assets Free And Clear Of Liens, Claims, And Encumbrances And To Pay Market Rate Broker Commissions In Connection With Such Sales Without Further Court Approval (the "Motion").

PLEASE TAKE FURTHER NOTICE that a hearing to consider approval of the Motion on a final basis will be held on October 27, 2005, at 10:00 a.m. (Prevailing Eastern Time) ("the Hearing") before the Honorable Robert D. Drain, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, Room 610, New York, New York, 10004.

PLEASE TAKE FURTHER NOTICE that objections, if any, to approval of the Motion on a final basis (a) must be in writing, (b) must conform to the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules for the Southern District of New York, (c) must be filed with the Bankruptcy Court in accordance with General Order M-242 (as amended) – registered users of the Bankruptcy Court's case filing system must file electronically, and all other parties-in-interest must file on a 3.5 inch disk (preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format), (d) must be submitted in hard-copy form directly to the chambers of

the Honorable Robert D. Drain, United States Bankruptcy Judge, and (e) and must be served upon (i) Delphi Corporation, 5725 Delphi Drive, Troy, Michigan 48098 (Att'n: General Counsel), (ii) counsel to the Debtors, Skadden, Arps, Slate, Meagher & Flom LLP, 333 West Wacker Drive, Suite 2100, Chicago, Illinois 60606 (Att'n: John Wm. Butler, Jr.), (iii) special counsel to the Debtors, Shearman & Sterling LLP, 599 Lexington Avenue, New York, New York 10022 (Att'n: Douglas P. Bartner), (iv) counsel for the agent under the Debtors' prepetition credit facility, Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, New York 10017 (Att'n: Marissa Wesley), (v) counsel for the agent under the Debtors' proposed postpetition credit facility, Davis Polk & Wardell, 450 Lexington Avenue, New York, New York 10017 (Att'n: Marlane Melican), (vi) counsel to any official committee formed in these cases, and (vii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, Suite 2100, New York, New York 10004 (Att'n: Alicia M. Leonhard), in each case so as to be **received** no later than **4:00 p.m. (Prevailing Eastern Time) on October 24, 2005** (the "Objection Deadline").

PLEASE TAKE FURTHER NOTICE that only those objections made in writing and timely filed and received by the Objection Deadline will be considered by the Bankruptcy Court at the Hearing. If no objections to the Motion are timely filed and served in accordance with the procedures set forth herein, the Bankruptcy Court may enter a final order granting the Motion **without further notice**.

Dated: New York, New York
October 17, 2005

SKADDEN, ARPS, SLATE, MEAGHER
& FLOM LLP

By: s/ John Wm. Butler, Jr.
John Wm. Butler, Jr. (JB 4711)
John K. Lyons (JL 4951)
Ron E. Meisler (RM 3026)
333 West Wacker Drive, Suite 2100
Chicago, Illinois 60606
(312) 407-0700

- and -

By: s/ Kayalyn A. Marafioti
Kayalyn A. Marafioti (KM 9632)
Thomas J. Matz (TM 5986)
Four Times Square
New York, New York 10036
(212) 735-3000

Attorneys for Delphi Corporation, et al.,
Debtors and Debtors-in-Possession

EXHIBIT D

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
333 West Wacker Drive, Suite 2100
Chicago, Illinois 60606
(312) 407-0700
John Wm. Butler, Jr. (JB 4711)
John K. Lyons (JL 4951)
Ron E. Meisler (RM 3026)

- and -

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
Four Times Square
New York, New York 10036
(212) 735-3000
Kayalyn A. Marafioti (KM 9632)
Thomas J. Matz (TM 5986)

Attorneys for Delphi Corporation, et al.,
Debtors and Debtors-in-Possession

Delphi Legal Information Hotline:
Toll Free: (800) 718-5305
International: (248) 813-2698

Delphi Legal Information Website:
<http://www.delphidocket.com>

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
In re	:	Chapter 11
	:	
DELPHI CORPORATION <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	x	

MOTION FOR AN ORDER UNDER 11 U.S.C. § 363
APPROVING PROCEDURES TO SELL CERTAIN DE MINIMIS ASSETS
FREE AND CLEAR OF LIENS, CLAIMS, AND ENCUMBRANCES AND
TO PAY MARKET RATE BROKER COMMISSIONS IN CONNECTION
WITH SUCH SALES WITHOUT FURTHER COURT APPROVAL

("DE MINIMIS ASSET SALE MOTION")

Delphi Corporation ("Delphi") and certain of its subsidiaries and affiliates (the "Affiliate Debtors"), debtors and debtors-in-possession (collectively, the "Debtors"), hereby submit this motion (the "Motion") for an order under 11 U.S.C. § 363 approving procedures to sell certain de minimis assets free and clear of liens, claims, and encumbrances and to pay market rate broker commissions in connection with such sales without further Court approval. In support of this Motion, the Debtors respectfully represent as follows:

BACKGROUND

A. The Chapter 11 Filings

1. On October 8, 2005 (the "Petition Date"), 39 of 42 Debtors, and on October 14, 2005, the remaining Debtors, filed voluntary petitions in this Court for reorganization relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as amended (the "Bankruptcy Code"). The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Also on the Petition Date, this Court entered an order directing the joint administration of the Debtors' chapter 11 cases. (Docket No. 28)

2. No trustee, examiner, or creditors' committee has been appointed in the Debtors' cases.

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

4. The statutory predicate for the relief requested herein is section 363 of the Bankruptcy Code.

B. Current Business Operations Of The Debtors

5. With more than 180,000 employees worldwide, global 2004 revenues of approximately \$28.6 billion, and global assets as of August 31, 2005 of approximately \$17.1 billion,¹ Delphi ranks as the fifth largest public company business reorganization in terms of revenues, and the thirteenth largest public company business reorganization in terms of assets. Delphi's non-U.S. subsidiaries are not chapter 11 debtors, will continue their business operations without supervision from the Bankruptcy Court, and will not be subject to the chapter 11 requirements of the U.S. Bankruptcy Code.

6. Over the past century, the operations which are now owned by Delphi have become a leading global technology innovator with significant engineering resources and technical competencies in a variety of disciplines. Today, the Company (as described below) is arguably the single largest global supplier of vehicle electronics, transportation components, integrated systems and modules, and other electronic technology. The Company's technologies and products are present in more than 75 million vehicles on the road worldwide. The Company supplies products to nearly every major global automotive original equipment manufacturer with 2004 sales to its former parent, General Motors Corporation, equaling approximately \$15.4 billion and sales to each of Ford Motor Company, DaimlerChrysler Corporation, Renault/Nissan Motor Company, Ltd., and Volkswagen Group exceeding \$850 million.

¹ The aggregated financial data used in this Motion generally consists of consolidated information from Delphi and its worldwide subsidiaries and affiliates.

7. As part of its growth strategy, Delphi has established an expansive global presence with a network of manufacturing sites, technical centers, sales offices, and joint ventures located in every major region of the world. In the U.S., the Debtors employ approximately 50,600 people. Those employees work in approximately 44 manufacturing sites and 13 technical centers across the country, and in Delphi's worldwide headquarters and customer center located in Troy, Michigan. Approximately 34,750 of these individuals are hourly employees, 96% of whom are represented by approximately 49 different international and local unions. Outside the United States, the Company's foreign entities employ more than 134,000 people, supporting 120 manufacturing sites and 20 technical centers across nearly 40 countries worldwide.

8. Delphi was incorporated in Delaware in 1998 as a wholly-owned subsidiary of GM. Prior to January 1, 1999, GM conducted the Company's business through various divisions and subsidiaries. Effective January 1, 1999, the assets and liabilities of these divisions and subsidiaries were transferred to Delphi and its subsidiaries and affiliates (collectively, the "Company") in accordance with the terms of a Master Separation Agreement between Delphi and GM. In connection with these transactions, Delphi accelerated its evolution from a North American-based, captive automotive supplier to a global supplier of components, integrated systems, and modules for a wide range of customers and applications. Although GM is still the Company's single largest customer, today more than half of Delphi's revenue is generated from non-GM sources.

9. Due to the significant planning that goes into each vehicle model, Delphi's efforts to generate new business do not immediately affect its financial results,

because supplier selection in the auto industry is generally finalized several years prior to the start of production of the vehicle. When awarding new business, which is the foundation for the Company's forward revenue base, customers are increasingly concerned with the financial stability of their supply base. The Debtors believe that they will maximize stakeholder value and the Company's future prospects if they stabilize their businesses and continue to diversify their customer base. The Debtors also believe that this must be accomplished in advance of the expiration of certain benefit guarantees between GM and certain of Delphi's unions representing most of its U.S. hourly employees which coincides with the expiration of the Company's U.S. collective bargaining agreements in the fall of 2007.

C. Events Leading To The Chapter 11 Filing

10. In the first two years following Delphi's separation from GM, the Company generated more than \$2 billion in net income. Every year thereafter, however, with the exception of 2002, the Company has suffered losses. In calendar year 2004, the Company reported a net operating loss of \$482 million on \$28.6 billion in net sales. Reflective of a downturn in the marketplace, Delphi's financial condition has deteriorated further in the first six months of 2005. The Company experienced net operating losses of \$608 million for the first six months of calendar year 2005 on six-month net sales of \$13.9 billion, which is approximately \$1 billion less in sales than during the same time period in calendar year 2004.²

² Reported net losses in calendar year 2004 were \$4.8 billion, reflecting a \$4.1 billion tax charge, primarily related to the recording of a valuation allowance on the U.S. deferred tax assets as of December 31, 2004.

11. The Debtors believe that three significant issues have largely contributed to the deterioration of the Company's financial performance: (a) increasingly unsustainable U.S. legacy liabilities and operational restrictions driven by collectively bargained agreements, including restrictions preventing the Debtors from exiting non-strategic, non-profitable operations, all of which have the effect of creating largely fixed labor costs, (b) a competitive U.S. vehicle production environment for domestic OEMs resulting in the reduced number of motor vehicles that GM produces annually in the United States and related pricing pressures, and (c) increasing commodity prices.

12. In light of these factors, the Company determined that it would be imprudent and irresponsible to defer addressing and resolving its U.S. legacy liabilities, product portfolio, operational issues, and forward looking revenue requirements. Having concluded that pre-filing discussions with its Unions and GM were not leading to the implementation of a plan sufficient to address the Debtors' issues on a timely basis, the Company determined to commence these chapter 11 cases for its U.S. businesses to complete the Debtors' transformation plan and preserve value.

13. Through the reorganization process, the Debtors intend to achieve competitiveness for Delphi's core U.S. operations by modifying or eliminating non-competitive legacy liabilities and burdensome restrictions under current labor agreements and realigning Delphi's global product portfolio and manufacturing footprint to preserve the Company's core businesses. This will require negotiation with key stakeholders over their respective contributions to the restructuring plan or, absent consensual participation, the utilization of the chapter 11 process to achieve the necessary cost savings and operational effectiveness envisioned in the Company's transformation plan. The Debtors

believe that a substantial segment of Delphi's U.S. business operations must be divested, consolidated, or wound-down through the chapter 11 process.

14. Upon the conclusion of this process, the Debtors expect to emerge from chapter 11 as a stronger, more financially sound business with viable U.S. operations that are well-positioned to advance global enterprise objectives. In the meantime, Delphi will marshal all of its resources to continue to deliver value and high-quality products to its customers globally. Additionally, the Company will preserve and continue the strategic growth of its non-U.S. operations and maintain its prominence as the world's premier auto supplier.

Relief Requested

15. By this Motion, the Debtors request authority to implement procedures by which the Debtors may sell miscellaneous surplus, non-core assets from time to time and pay applicable broker commissions in the ordinary course of business in connection with such sales without need for further Court approval, but subject to the notice procedures set forth below.

Basis For Relief

16. Prior to the Petition Date, and in furtherance of their reorganization efforts, the Debtors strove to streamline their operations by eliminating unnecessary operating expenses by exiting certain non-core business lines and dispensing of surplus assets. For example, as part of this strategy the Debtors (a) sold their interest in CEI Co., Ltd., a manufacturer of flat-pack and servo motor actuators, thermo control units, and backplate assemblies, (b) sold their interest in AMBRAKE Corporation, a manufacturer of base brake assemblies and components, and its subsidiaries, (c) over the course of the last few years, periodically sold various miscellaneous assets in connection with the

disposition of their generator business line, (d) sold various parcels of real property, including real property located in Anaheim, California and Olathe, Kansas, and (e) have actively marketed certain other assets and their interests in certain other subsidiaries and affiliates involved in other businesses identified by the Debtors as unnecessary to their overall business strategy. The Debtors also continue to assess and evaluate numerous executory contracts and opportunities for further asset dispositions in an effort to optimize cash flow, maximize the value of the estates, and minimize excessive costs.

17. In connection with these and other actions related to the Debtors' restructuring efforts, the Debtors will need to dispose of excess real and personal property in and outside the ordinary course of their businesses. The quantum of these assets is de minimis when considered in comparison to the size and scope of the Debtors' overall business enterprise. Moreover, the Debtors anticipate that such dispositions will involve numerous small transactions or a related series of transactions in which the consideration that the Debtors receive will be equal to or less than \$10 million for each transaction (the "de minimis Assets"). The Debtors believe that the use of brokers will significantly aid in the timely disposition and realization of the maximum possible value for many such assets. Accordingly, the Debtors seek approval to pay applicable market rate broker commissions (the "Broker Commissions") for brokers utilized in the ordinary course of the Debtors' businesses in connection with certain dispositions of de minimis Assets.

18. The Debtors expect that a proposed buyer's offer with respect to such assets will necessarily be conditioned on the utilization of a streamlined process that can be completed in an expedited time frame and at a cost commensurate with the remuneration to be received by the Debtors and their estates. Accordingly, the Debtors

have concluded that it would be more efficient, and the proceeds realized with respect to such transactions will be maximized, if the Debtors are authorized to implement procedures which allow them to sell de minimis Assets, or groups of such assets, with a purchase price of \$10 million or less, and pay any applicable Broker Commissions in connection with such dispositions, on an expedited basis without incurring the delay and costs of preparing, filing, serving, and having hearings on motions for approval of each such sale.

19. The de minimis Assets are subject to the lien(s) of the Debtors' debtor-in-possession lenders (the "DIP Lenders") pursuant to the terms of the debtor-in-possession financing agreements (collectively, the "DIP Agreement") approved by this Court in an interim order entered as of October 12, 2005, and subsequently set for a further hearing on October 27, 2005 (the "Interim DIP Order"). In addition, other creditors may have a lien against certain of the de minimis Assets (to the extent such liens are valid and properly perfected, the "Other Liens"). Any and all proceeds from the sales of de minimis Assets would be utilized consistent with the provisions of the DIP Agreement, the Interim DIP Order, and any final order with respect to the DIP Agreement, entered in these cases and, with respect to Other Liens, to the extent permitted by the Bankruptcy Code.

Sale And Notice Procedures

20. The Debtors propose that for the sale of de minimis Assets outside of the ordinary course of business, which otherwise would require Court approval pursuant to section 363 of the Bankruptcy Code, the following procedures (the "Notice Procedures") be approved and implemented in lieu of a separate notice and a hearing for each such sale:

(a) The Debtors would give notice of each proposed sale (the "Sale Notice") to (i) the Office of the United States Trustee (the "U.S. Trustee"), (ii) counsel to any official committees appointed in these cases (the "Committee(s)"), (iii) counsel for the agent to the DIP Lenders, (iv) any other known holder of a lien, claim, or encumbrance against the specific property to be sold, and (v) any known interested party in the subject de minimis Assets (collectively, the "Notice Parties"). The Sale Notice would be served by facsimile, if possible, so as to be received by 5:00 p.m. (Eastern Time) on the date of service and by overnight mail. The Sale Notice would specify (i) the assets to be sold, (ii) the identity of the proposed purchaser (including a statement that the proposed purchaser is not an "insider" as defined in section 101(31) of the Bankruptcy Code), (iii) the proposed sale price, (iv) a copy of any documentation executed in contemplation of the transaction, and (v) an affidavit of the broker, if any, pursuant to rule 2014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), that identifies the broker, the amount of the Broker Commission, and contains the disclosures required by Bankruptcy Rule 2014.

(b) The Notice Parties would have five business days following initial receipt of the Sale Notice to object to or request additional time to evaluate the proposed transaction and the Broker Commission. If counsel to the Debtors receives no written objection or written request for additional time prior to the expiration of such five business day period, the Debtors would be authorized to consummate the proposed sale transaction and to take such actions as are necessary to close the transaction and collect the proceeds of such sale, including, without limitation, payment of the Broker Commission.

(c) If a Notice Party objects to the proposed transaction and/or the Broker Commission within five business days after the Sale Notice is received, the Debtors and such objecting Notice Party would use good faith efforts to resolve the objection consensually. If the Debtors and the objecting Notice Party are unable to achieve a consensual resolution, the Debtors would not take any further steps to consummate the proposed transaction without first obtaining Bankruptcy Court approval of the proposed transaction, including retention of any broker, upon notice and a hearing.

(d) To the extent that a competing bid is received for the purchase of the de minimis Assets, which in the Debtor's sole discretion, in the exercise of their business judgment and in consultation with their processional, materially exceeds the value of the purchase price contained in the Sale Notice, then the Debtors shall re-notice the proposed sale to the subsequent bidder pursuant to the Notice Procedures, provided that the proposed purchase price is still less than or equal to \$10 million, and to the extent the proposed purchase price is greater than \$10 million, then the Debtors would file a motion with this Court in accordance with the Case Management Order (Docket No. 164) to obtain approval for the proposed transaction.

(e) Any valid and enforceable liens would attach to the net proceeds of the sale, subject to any claims and defenses the Debtors may possess with respect thereto, and any amounts in excess of such liens would be utilized by the Debtors in accordance with the terms of the DIP Agreement (if approved by the Court).

21. Nothing in the foregoing procedures would prevent the Debtors, in their sole and absolute discretion, from seeking Bankruptcy Court approval at any time of any proposed transaction upon notice and a hearing, or if necessary, to comfort a purchaser, to submit a separate order to the Court along with a certificate of no objection to be entered without need for a hearing on the matter.

Applicable Authority

22. Section 363(b) of the Bankruptcy Code provides that a debtor "after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." A debtor must demonstrate a sound business justification for a sale or use of assets outside the ordinary course of business. See, e.g., Licensing By Paolo, Inc. v. Sinatra (In re Gucci), 126 F.3d 380, 387 (2d Cir. 1997); Committee of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.), 722 F.2d 1063, 1070 (2d Cir. 1983); In re Global Crossing Ltd., 295 B.R. 726, 743 (Bankr. S.D.N.Y. 2003); In re Ionosphere Clubs, Inc., 100 B.R. 670, 675 (Bankr. S.D.N.Y. 1989). As described herein, sound business reasons exist to justify selling the de minimis Assets upon the procedures set forth herein. Indeed, allowing the Debtors to sell assets in this manner constitutes the most efficient and cost-effective means of maximizing the value realized for their assets and thus is in the best interests of the Debtors' estates and their creditors.

23. Obtaining Court approval of each such sale transaction and Broker Commission would result in administrative expenses for drafting, serving, and filing

pleadings, as well as time incurred by attorneys for appearing at Court hearings. The Debtors believe that the proceeds that will be generated by many of the aforementioned sale transactions do not warrant incurring such expenses.

24. The expedited procedures set forth herein would permit the Debtors to be responsive to the needs of interested purchasers, thereby guarding against lost sales due to delay, while still providing for a review of the proposed transaction by the (a) U.S. Trustee, (b) counsel to the Committee(s), (c) counsel to the agent to the DIP Lenders, (c) any other known holder of a lien, claim, or encumbrance against the specific property to be sold, and (d) known interested parties in the subject de minimis Assets. Without an expedited process for closing the Debtors' sales, these estates will, at best, incur added and unnecessary expenses and will, at worst, both be deprived of income from these sales and forced to continue to operate businesses that the Debtors have determined are neither necessary nor beneficial to their overall restructuring strategy.

25. Moreover, pursuant to section 363(f) of the Bankruptcy Code, the Court may authorize the sale of assets free and clear of existing liens, claims, and encumbrances if (a) applicable non-bankruptcy law permits the sale of such property free and clear of such interest, (b) the entity holding the lien, claim, or encumbrance consents to the proposed sale, (c) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property, (d) such interest is in bona fide dispute, or (e) such entity could be compelled in a legal or equitable proceeding to accept a money satisfaction of such interest.

26. The Debtors believe that the Notice Procedures set forth above satisfy the requirements of section 363(f). If a holder of a lien, claim, or encumbrance

receives the requisite notice and does not object within the prescribed time period, the Debtors request that such holder be deemed to have consented to the proposed sale and that the property then may be sold free and clear of such holder's liens, claims, or encumbrances.

27. Section 363(m) of the Bankruptcy Code also provides:

The reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

11 U.S.C. § 363(m). Although the Bankruptcy Code does not define "good faith," the Second Circuit Court of Appeals in In re Gucci held that the:

Good faith of a purchaser is shown by the integrity of his conduct during the course of the sale proceedings; where there is a lack of such integrity, a good faith finding may not be made. A purchaser's good faith is lost by 'fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders.'

126 F.3d at 390 (quoting In re Rock Industries Machinery Corp., 572 F.2d 1195, 1198 (7th Cir. 1978) (interpreting Bankruptcy Rule 805, the precursor of section 363(m))); see also Evergreen Int'l Airlines Inc. v. Pan Am Corp. (In re Pam Am Corp.), Case Nos. 91 Civ. 8319 (LMM) to 91 Civ. 8324 (LMM), 1992 WL 154200 at *4 (S.D.N.Y. June 18, 1992); In re Sasson Jeans, Inc., 90 B.R. 608, 610 (S.D.N.Y. 1988). The Debtors submit that any agreement reached as a result of a sale of de minimis Assets will be an arm's-length transaction entitled to the protections of section 363(m) of the Bankruptcy Code.

28. Additionally, the procedures set forth herein would not apply to sales of de minimis Assets to an "insider" as defined in section 101(31) of the Bankruptcy

Code. Any such sale would continue to require an individual hearing as prescribed by section 363(b) of the Bankruptcy Code.

29. The Debtors seek this Court's authority to sell de minimis Assets to reduce indebtedness and improve liquidity, thereby facilitating the formation and ultimate confirmation of a plan of reorganization and yielding the highest possible returns to the Debtors' creditors. In light of the foregoing, the Debtors respectfully submit that dispositions of de minimis Assets are necessary and in the best interest of their creditors.

30. Procedures to dispose of de minimis assets, similar to the procedures proposed herein, have been approved in other large, complex chapter 11 cases. See, e.g., In re Delta Air Lines, Inc., Case No. 05-17923 (PCB) (Bankr. S.D.N.Y. Oct. 6, 2005) (approval of procedures governing sales of up to \$10 million in assets in a single transaction); In re Fleming Cos., Case No. 03-10945 (MFW) (Bankr. D. Del. May 21, 2003) (approval of procedures governing sales of up to \$6.5 million in assets in a single transaction or series of related transactions); In re UAL Corp., Case No. 02-48191 (ERW) (Bankr. N.D. Ill. Jan. 17, 2003) (approval of procedures governing sales of up to \$15 million in assets in a single transaction or series of related transactions); In re WorldCom, Inc., Case No. 02-13533 (AJG) (Bankr. S.D.N.Y. Oct. 22, 2002) (approval of procedures governing sales of up to \$10 million in assets in a single transaction or series of related transactions); In re Exide Technologies, Case No. 02-11125 (JCA) (Bankr. D. Del. May 10, 2002) (approval of procedures governing sales of up to \$5 million in assets in a single transaction or series of related transactions).

31. For the foregoing reasons, the Debtors believe that the relief requested herein is in the best interests of the estates and should be granted.

Notice

32. Notice of this Motion has been provided in accordance with the Order Under 11 U.S.C. §§ 102(1) And 105 And Fed. R. Bankr. P. 2002(m), 9006, 9007, And 9014 Establishing (I) Omnibus Hearing Dates, (II) Certain Notice, Case Management, And Administrative Procedures, And (III) Scheduling An Initial Case Conference In Accordance With Local Bankr. R. 1007-2(e) entered by this Court on October 14, 2005 (Docket No. 245). In light of the nature of the relief requested, the Debtors submit that no other or further notice is necessary.

Memorandum Of Law

33. Because the legal points and authorities upon which this Motion relies are incorporated herein, the Debtors respectfully request that the requirement of the service and filing of a separate memorandum of law under Local Rule 9013-1(b) be deemed satisfied.

WHEREFORE, the Debtors respectfully request that the Court enter an order (a) authorizing the Debtors to sell certain de minimis Assets without further Court approval, subject to the Notice Procedures set forth herein, and (b) granting the Debtors such other and further relief as is just.

Dated: New York, New York
October 17, 2005

SKADDEN, ARPS, SLATE, MEAGHER
& FLOM LLP

By: s/ John Wm. Butler, Jr.
John Wm. Butler, Jr. (JB 4711)
John K. Lyons (JL 4951)
Ron E. Meisler (RM 3026)
333 West Wacker Drive, Suite 2100
Chicago, Illinois 60606
(312) 407-0700

- and -

By: s/Kayalyn A. Marafioti
Kayalyn A. Marafioti (KM 9632)
Thomas J. Matz (TM 5986)
Four Times Square
New York, New York 10036
(212) 735-3000

Attorneys for Delphi Corporation, et al.,
Debtors and Debtors-in-Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re	:
	:
	: Chapter 11
DELPHI CORPORATION, <u>et al.</u> ,	:
	: Case No. 05 – 44481 (RDD)
Debtors.	:
	: (Jointly Administered)
	:
-----	x

ORDER UNDER 11 U.S.C. § 363
APPROVING PROCEDURES TO SELL CERTAIN DE MINIMIS ASSETS
FREE AND CLEAR OF LIENS, CLAIMS, AND ENCUMBRANCES AND
TO PAY MARKET RATE BROKER COMMISSIONS IN CONNECTION
WITH SUCH SALES WITHOUT FURTHER COURT APPROVAL

("DE MINIMIS ASSET SALE ORDER")

Upon the motion, dated October 17, 2005 (the "Motion"), of Delphi Corporation and certain of its subsidiaries and affiliates, debtors and debtors-in-possession in the above-captioned cases (collectively, the "Debtors"), for an order under section 363 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as amended (the "Bankruptcy Code"), authorizing the Debtors to sell certain de minimis assets outside the ordinary course of business free and clear of liens, claims, and encumbrances and to pay market rate broker commissions in connection with such dispositions without further Court approval; and upon the record of the hearing held on the Motion; and this Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties-in-interest; and it appearing that proper and adequate notice of the Motion has been given and that

no other or further notice is necessary; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED.

2. The Debtors hereby are authorized to consummate, without further Court approval, sales of real and personal property outside of the ordinary course of business when the purchase price is \$10 million or less for each transaction or in the aggregate for a related series of transactions (the "de minimis Assets"), free and clear of all liens, claims, and encumbrances, with any such liens, claims, and encumbrances attaching to the sale proceeds, subject to the notice procedures set forth below.

3. The Debtors hereby are authorized to pay, without further Court approval, market rate broker commissions (the "Broker Commissions") for brokers utilized in the ordinary course of the Debtors' business in connection with any sales of de minimis Assets upon satisfaction of the disclosure requirements provided for herein.

4. Sales of de minimis Assets are subject to the following notice procedures (the "Notice Procedures"):

(a) The Debtors shall give notice of each proposed sale (the "Sale Notice") to (i) the Office of the United States Trustee, (ii) counsel to any official committees appointed in these cases (the "Committee(s)"), (iii) counsel for the agent under the Debtor's debtor-in-possession lenders (the "DIP Lenders"), (iv) any other known holder of a lien, claim, or encumbrance against the specific property to be sold, and (v) any known interested party in the subject de minimis Assets (collectively, the "Notice Parties"). The Sale Notice shall be served by facsimile, if possible, so as to be received by 5:00 p.m. (Eastern Time) on the date of service and by overnight mail. The Sale Notice shall specify (i) the assets to be sold, (ii) the identity of the proposed purchaser (including a statement that the proposed purchaser is not an "insider" as defined in section 101(31) of the Bankruptcy Code), (iii) the proposed sale price, (iv) a copy of any documentation executed in contemplation of the transaction, and (v) an affidavit of the broker, if any, pursuant to rule 2014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), that

identifies the broker, the amount of the Broker Commission, and contains the disclosures required by Bankruptcy Rule 2014.

(b) The Notice Parties shall have five business days following initial receipt of the Sale Notice to object to or request additional time to evaluate the proposed transaction and the Broker Commission. If counsel to the Debtors receives no written objection or written request for additional time prior to the expiration of such five business day period, the Debtors shall be authorized to consummate the proposed sale transaction and to take such actions as are necessary to close the transaction and collect the proceeds of such sale, including, without limitation, payment of the Broker Commission.

(c) If a Notice Party objects to the proposed transaction and/or the Broker Commission within five business days after the Sale Notice is received, the Debtors and such objecting Notice Party shall use good faith efforts to consensually resolve the objection. If the Debtors and the objecting Notice Party are unable to achieve a consensual resolution, the Debtors shall not take any further steps to consummate the proposed transaction without first obtaining Bankruptcy Court approval of the proposed transaction, including retention of any broker, upon notice and a hearing.

(d) To the extent that a competing bid is received for the purchase of the de minimis Assets, which in the Debtor's sole discretion, in the exercise of their business judgment and in consultation with their processional, materially exceeds the value of the purchase price contained in the Sale Notice, then the Debtors shall re-notice the proposed sale to the subsequent bidder pursuant to the Notice Procedures, provided that the proposed purchase price is still less than or equal to \$10 million, and to the extent the proposed purchase price is greater than \$10 million, then the Debtors shall file a motion with this Court in accordance with the Case Management Order (Docket No. 164) to obtain approval for the proposed transaction.

(e) Any valid and enforceable liens shall attach to the net proceeds of the sale, subject to any claims and defenses the Debtors may possess with respect thereto, and any amounts in excess of such liens shall be utilized by the Debtors in accordance with the terms of the debtor-in-possession financing agreements (collectively, the "DIP Agreement") (if approved by this Court).

5. Nothing in the foregoing procedures shall prevent the Debtors, in their sole and absolute discretion, from seeking Bankruptcy Court approval at any time of any proposed transaction upon notice and a hearing, or if necessary, to comfort a purchaser, to submit a separate order to this Court along with a certificate of no objection to be entered without need for a hearing on the matter.

6. The Notice Procedures set forth herein shall not apply to sales of assets that involve an "insider," as defined in section 101(31) of the Bankruptcy Code. Any such sale shall continue to require an individual hearing as prescribed by section 363(b) of the Bankruptcy Code.

7. Sales of de minimis Assets shall be arm's-length transactions entitled to the protections of section 363(m) of the Bankruptcy Code.

8. The Debtors and their respective officers, employees, and agents are authorized to perform all of their obligations, take whatever actions necessary, and issue, execute, and deliver whatever documents may be necessary or appropriate to implement and effectuate any dispositions of de minimis Assets.

9. Each and every federal State and local government agency or department is hereby directed to accept any and all documents and instruments necessary or appropriate to consummate the dispositions of de minimis Assets. The register or recorder of deeds (or other similar recording agency) is hereby directed to accept and include a certified copy of this Order along with any other appropriate conveyance documents used to record and index the transfer of any de minimis Assets in the appropriate public records.

10. Pursuant to the terms of the DIP Agreement and the interim order approving such DIP Agreement on an interim basis, entered on October 12, 2005, and subject to the final approval of the DIP Agreement, the DIP Lenders hold valid, duly perfected security interests in and liens upon the de minimis Assets. Subject to the final approval of the DIP Agreement, any and all proceeds obtained by the Debtors from any sales of such de minimis Assets will be applied as required by the DIP Agreement. Nothing contained herein shall be deemed a waiver

by the DIP Lenders of any required approval or disapproval of any sale, whether pursuant to this Order or otherwise.

11. All other holders of valid and perfected liens shall be treated in accordance with section 363(f) of the Bankruptcy Code.

12. Nothing in this Order alters or modifies the Debtors obligation to file a motion pursuant to section 365 of the Bankruptcy Code to assume and/or assign any lease.

13. No further orders of this Court are necessary to effectuate the terms set forth herein for transactions or related series of transactions completed in good faith.

14. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

15. The requirement under Local Rule 9013-1(b) for the service and filing of a separate memorandum of law is deemed satisfied by the Motion.

Dated: New York, New York
October __, 2005

UNITED STATES BANKRUPTCY JUDGE

EXHIBIT E

Hearing Date: October 27, 2005, 10:00 a.m.
Objection Deadline: October 24, 2005, 4:00 p.m.

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
333 West Wacker Drive, Suite 2100
Chicago, Illinois 60606
(312) 407-0700
John Wm. Butler, Jr. (JB 4711)
John K. Lyons (JL 4951)
Ron E. Meisler (RM 3026)

- and -

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
Four Times Square
New York, New York 10036
(212) 735-3000
Kayalyn A. Marafioti (KM 9632)
Thomas J. Matz (TM 5986)

Attorneys for Delphi Corporation, et al.,
Debtors and Debtors-in-Possession

Delphi Legal Information Hotline:
Toll Free: (800) 718-5305
International: (248) 813-2698

Delphi Legal Information Website:
<http://www.delphidocket.com>

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
In re	:	Chapter 11
	:	
DELPHI CORPORATION, <u>et al.</u> ,	:	Case No. 05- 44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	x	

NOTICE OF MOTION FOR ORDER UNDER 11 U.S.C. § 365(a)
AUTHORIZING REJECTION OF LEASE AGREEMENT
WITH DURASWITCH INDUSTRIES, INC.

PLEASE TAKE NOTICE that on October 17, 2005, Delphi Corporation ("Delphi") and certain of its subsidiaries and affiliates, debtors and debtors-in-possession in the above-captioned cases filed the Motion For Order Under 11 U.S.C. § 365(a) Authorizing Rejection Of Lease Agreement With Duraswitch Industries, Inc. (the "Motion").

PLEASE TAKE FURTHER NOTICE that a hearing to consider approval of the Motion on a final basis will be held on October 27, 2005, at 10:00 a.m. (Prevailing Eastern Time) (the "Hearing") before the Honorable Robert D. Drain, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, Room 610, New York, New York, 10004.

PLEASE TAKE FURTHER NOTICE that objections, if any, to approval of the Motion on a final basis (a) must be in writing, (b) must conform to the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules for the Southern District of New York, (c) must be filed with the Bankruptcy Court in accordance with General Order M-242 (as amended) – registered users of the Bankruptcy Court's case filing system must file electronically, and all other parties-in-interest must file on a 3.5 inch disk (preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format), (d) must be submitted in hard-copy form directly to the chambers of the Honorable Robert D. Drain, United States Bankruptcy Judge, and (e) and must be served upon (i) Delphi Corporation, 5725 Delphi Drive, Troy, Michigan 48098 (Att'n: General Counsel), (ii) counsel to the Debtors, Skadden, Arps, Slate, Meagher & Flom LLP,

333 West Wacker Drive, Suite 2100, Chicago, Illinois 60606 (Att'n: John Wm. Butler, Jr.), (iii) special counsel to the Debtors, Shearman & Sterling LLP, 599 Lexington Avenue, New York, New York 10022 (Att'n: Douglas P. Bartner), (iv) counsel for the agent under the Debtors' prepetition credit facility, Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, New York 10017 (Att'n: Marissa Wesley), (v) counsel for the agent under the Debtors' proposed postpetition credit facility, Davis Polk & Wardell, 450 Lexington Avenue, New York, New York 10017 (Att'n: Marlane Melican), (vi) counsel to any official committee formed in these cases, and (vii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, Suite 2100, New York, New York 10004 (Att'n: Alicia M. Leonhard), in each case so as to be **received** no later than **4:00 p.m. (Prevailing Eastern Time) on October 24, 2005** (the "Objection Deadline").

PLEASE TAKE FURTHER NOTICE that only those objections made in writing and timely filed and received by the Objection Deadline will be considered by the Bankruptcy Court at the Hearing. If no objections to the Motion are timely filed and served in accordance with the procedures set forth herein, the Bankruptcy Court may enter a final order granting the Motion **without further notice**.

Dated: New York, New York
October 17, 2005

SKADDEN, ARPS, SLATE, MEAGHER
& FLOM LLP

By: s/ John Wm. Butler, Jr.
John Wm. Butler, Jr. (JB 4711)
John K. Lyons (JL 4951)
Ron E. Meisler (RM 3026)
333 West Wacker Drive, Suite 2100
Chicago, Illinois 60606
(312) 407-0700

- and -

By: s/ Kayalyn A. Marafioti
Kayalyn A. Marafioti (KM 9632)
Thomas J. Matz (TM 5986)
Four Times Square
New York, New York 10036
(212) 735-3000

Attorneys for Delphi Corporation, et al.,
Debtors and Debtors-in-Possession